

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 11-00300 WHA

Plaintiff,

v.

JAMES JOLIVETTE,

Defendant.

**ORDER REGARDING PRESENTENCE
REPORT, DIRECTION TO PROBATION
OFFICER, AND CONTINUING
SENTENCING HEARING**

The sentencing hearing will be continued because the probation officer failed to get to the bottom of whether or not the offender is a gang member or associate. The presentence report should make a flat out “yes” or “no” determination and state a conclusion regarding gang affiliation rather than merely present the allegations of others and objections thereto. If there is sufficient evidence to support a finding that the offender is a gang member then the presentence report should so state; if not, it should so state.

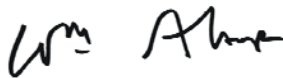
In addition, also contrary to this judge’s specific request to probation, the probation officer evidently failed to examine the offender’s torso and allowed the offender to merely display the tattoos as he wished — apparently the offender wished to display only those on his arms (§ 50). The probation officer shall re-examine defendant if necessary and shall describe in the presentence report all tattoos and state whether they are gang tattoos.

1 After the revised presentence report is complete both sides shall have an opportunity to
2 comment on it and make objections. Accordingly, the sentencing hearing is continued to
3 **SEPTEMBER 27, 2011, AT 2:00 P.M.**

4 A copy of this order shall be delivered not only to the probation officer in question but
5 also to Yador Harrell, Chief Probation Officer.

6
7 **IT IS SO ORDERED.**

8
9 Dated: August 18, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE